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1949

SENATE....No. 94.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Forty-Nine.

AN ACT

To establish the City of Lynn.

BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

- 1 SECT. 1. The inhabitants of the town of Lynn
- 2 shall continue to be a body politic and corporate,
- 3 under the name of the city of Lynn, and, as such,
- 4 shall have, exercise, and enjoy, all the rights, immu-
- 5 nities, powers, and privileges, and shall be subject to
- 6 all the duties and obligations, now incumbent upon
- 7 and appertaining to said town, as a municipal corpo-
- 8 ration.

1 SECT. 2. The administration of all the fiscal, pru-
2 dential, and municipal affairs of said city, with the
3 government thereof, shall be vested in one principal
4 officer, to be styled the mayor ; one council of eight,
5 to be called the board of aldermen ; and one council
6 of twenty-six, to be called the common council ;—
7 which boards, in their joint capacity, shall be denom-
8 inated the city council, and the members thereof
9 shall be sworn to the faithful performance of the du-
10 ties of their respective offices. A majority of each
11 board shall constitute a quorum for doing business,
12 and no member of either board shall receive any
13 compensation for his services.

1 SECT. 3. It shall be the duty of the selectmen of
2 the town of Lynn, as soon as may be, after the pas-
3 sage of this act, and its acceptance by the inhabi-
4 tants, as hereinafter provided, to divide said town
5 into eight wards, as follows, to wit:—To constitute
6 the peninsula of Nahant one ward, which ward shall
7 be entitled to one member of the common council ;
8 and continue the division lines of school district num-
9 ber one, which ward shall be entitled to two mem-
10 bers of the common council ; also, to continue the
11 division of school district number seven, to form one
12 ward, which shall be entitled to one member of the
13 common council ; and school wards, numbers three
14 and nine, shall be united to constitute one ward, and
15 shall have two members of the common council ; and
16 school districts, numbers two, four, five, and six,
17 shall constitute four wards, to be divided as nearly
18 equal in population as possible, and each shall be
19 entitled to five members of the common council.

20 And the city council shall, once in five years, revise
21 and alter, if it be needful, the boundaries of the
22 wards, by the vote of a majority present and voting
23 thereon.

1 SECT. 4. On the second Monday in March, annu-
2 ally, there shall be chosen, by ballot, in each of said
3 wards, a warden, clerk, and three inspectors of elec-
4 tions, residents of wards in which they are chosen,
5 who shall hold their offices for one year, and until
6 others shall have been chosen in their places, and
7 qualified to act. It shall be the duty of such warden
8 to preside at all ward meetings, with the power of
9 moderators of town meetings; and if, at any meeting,
10 the warden shall not be present, the clerk of such
11 ward shall call the meeting to order, and preside
12 until a warden *pro tempore* shall be chosen by ballot.
13 And if, at any meeting, the clerk shall not be pres-
14 ent, a clerk *pro tempore* shall be chosen by ballot.
15 The clerk shall record all the proceedings and certify
16 the votes given, and deliver over, to his successor in
17 office, all such records and journals, together with all
18 other documents and papers held by him in said ca-
19 pacity. And it shall be the duty of the inspectors
20 of elections to assist the warden, in receiving, assort-
21 ing, and counting the votes. And the warden, clerk,
22 and inspectors, so chosen, shall respectively make
23 oath, or affirmation, faithfully and impartially to dis-
24 charge their several duties relative to all elections,
25 which oath may be administered by the clerk of such
26 ward to the warden, and by the warden to the clerk
27 and inspectors, or by any justice of the peace for the
28 county of Essex. All warrants for meetings of the

29 citizens for municipal purposes, to be held either in
30 wards, or in general meetings, shall be issued by the
31 mayor and aldermen, and shall be in such form, and
32 shall be served, executed, and returned, in such man-
33 ner, and at such times, as the city council may, by
34 any by-law, direct.

1 SECT. 5. The mayor and aldermen, to be selected
2 from the city at large, shall be elected by the quali-
3 fied voters, voting in their respective wards; and
4 not more than two shall be taken from any one
5 ward. The common council men shall be elected
6 from, and by the voters of, each ward, and shall be
7 residents of the wards in which they are elected.
8 All said officers shall be chosen by ballot, and shall
9 hold their offices for one year, from the first Monday
10 in April, or until others shall be elected and qualified.

1 SECT. 6. On the second Monday in March, annu-
2 ally, immediately after a warden, clerk, and inspectors
3 shall have been elected and sworn, the qualified voters
4 in each ward shall give in their votes for mayor,
5 aldermen, and common council men, as provided in
6 the preceding section; and all the votes, so given,
7 shall be assorted, counted, declared and registered, in
8 open ward meeting, by causing the names of persons
9 voted for, and the number of votes given for each,
10 to be written in the ward records, in words at length.
11 The clerk of the ward, within twenty-four hours after
12 such election, shall deliver, to the persons elected
13 members of the common council, certificates of their
14 election, signed by the warden and clerk, and by a
15 majority of the inspectors of elections, and shall de-

16 liver, to the city clerk, a copy of the records of such
17 elections, certified in like manner; *provided, however,*
18 that, if the choice of the common council men cannot
19 be conveniently effected on that day, the meeting
20 may be adjourned from time to time, to complete
21 such election. The board of aldermen shall, as soon
22 as conveniently may be, examine the copies of records
23 of the several wards, certified as aforesaid, and shall
24 cause the person who may have been elected mayor,
25 to be notified, in writing, of his election; but, if it
26 shall appear that no person has received a majority of
27 all the votes, or, if the person elected shall refuse to
28 accept the office, the board shall issue their warrants
29 for a new election, and the same proceedings shall be
30 had as are herein before provided, for the choice of
31 mayor, and repeated from time to time, until a mayor
32 shall be chosen.

33 In case of the decease, resignation, or absence of
34 the mayor, or his inability to perform the duties of
35 his office, it shall be the duty of the board of alder-
36 men and the common council, in convention, to elect a
37 mayor to serve during the unexpired term, or until
38 the occasion, causing the vacancy, is removed. And
39 if it shall appear that the whole number of aldermen
40 have not been elected, the same proceedings shall be
41 had, as are herein before provided for choice of mayor.
42 Each alderman shall be notified, in writing, of his
43 election, by the mayor and aldermen for the time
44 being.

45 The oath prescribed by this act shall be adminis-
46 tered to the mayor by the city clerk, or any justice of
47 the peace for the county of Essex.

48 The aldermen and common council men elect, shall,

49 on the first Monday of April, at ten o'clock in the
50 forenoon, meet in convention, when the oath required
51 by this act shall be administered to the members of
52 the two boards present, by the mayor, or by any
53 justice of the peace for the county of Essex ; and a
54 certificate of such oath, having been taken, shall be
55 entered on a journal of the mayor and aldermen,
56 and of the common council, by their respective
57 clerks.

58 And whenever it shall appear that no mayor has
59 been elected previously to the said first Monday in
60 April, the mayor and aldermen for the time being,
61 shall make a record of that fact ; an attested copy of
62 which, the city clerk shall read at the opening of the
63 convention to be held as aforesaid.

64 After the oath has been administered as aforesaid,
65 the two boards shall separate, and the common coun-
66 cil shall be organized by the choice of a president
67 and clerk, who shall be sworn to the faithful per-
68 formance of their duties.

69 In case of the absence of the mayor elect, on the
70 first Monday in April, the city government shall
71 organize itself in the manner herein before provided,
72 and may proceed to business in the same manner as
73 if the mayor were present, and the oath of office may
74 be administered to the mayor at any time thereafter,
75 in a convention of the two branches.

76 In the absence of the mayor, the board of alder-
77 men may choose a chairman pro tempore, who shall
78 preside at joint meetings of the two boards.

79 Each board shall keep a record of its own proceed-
80 ings, and judge of the election of its own members ;
81 and, in failure of an election, or in case of any va-

82 cancy declared by either board, the mayor and alder-
83 men shall order a new election.

1 SECT. 7. The mayor, thus chosen and qualified,
2 shall be the chief executive officer of said city. It
3 shall be his duty to be vigilant in causing the laws
4 and regulations of the city to be enforced, and keep
5 a general supervision over the conduct of all subor-
6 dinate officers, and to cause their neglect of duty to
7 be punished. He may call special meetings of the
8 boards of aldermen and common council, or either of
9 them, when necessary, in his opinion, by causing
10 notices to be left at the places of residence of the
11 several members; he shall communicate, from time
12 to time, to both of them, such information and recom-
13 mend such measures as, in his opinion, the interests
14 of the city may require; he shall preside in the
15 board of aldermen, and in convention of the two
16 boards; but shall have a casting vote only. His
17 salary shall be, for the first year under this charter,
18 five hundred dollars, and no more. He shall after-
19 wards receive, for his services, such salary as the city
20 council shall determine, and shall receive no other
21 compensation; but such salary shall not be increased,
22 or diminished, during his continuance in office.

1 SECT. 8. The executive power of said city gener-
2 ally, and the administration of the police, with all
3 the powers heretofore vested in the selectmen of
4 Lynn, shall be vested in the mayor and aldermen, as
5 fully as if the same were herein specially enumerated.
6 And the mayor and aldermen shall have full and
7 exclusive power to appoint a constable and assistants,

8 or a city marshal and assistants, with the powers and
9 duties of constables, and all other police officers; and
10 may remove the same, when, in their opinion, suffi-
11 cient cause for removal exists.

12 All other powers now vested in the inhabitants
13 of said town, and all powers granted by this act,
14 shall be vested in the mayor and aldermen and com-
15 mon council of said city, to be exercised by concur-
16 rent vote, each board to have a negative upon the
17 other. But the city council shall annually, as soon
18 after their organization as may be convenient, elect,
19 by joint ballot, in convention, the overseers of the
20 poor and school committee, and these shall be se-
21 lected in manner as follows, viz., one overseer of
22 the poor, at least, shall be taken from each ward, and
23 not less than one member of the school committee
24 shall be chosen from each ward, and said school com-
25 mittee shall serve without compensation, city treas-
26 urer and collector, firewards, city clerk, assessors
27 and assistant assessors, and shall, in such manner as
28 said city council shall determine, by any by-law made
29 for the purpose, appoint or elect all subordinate offi-
30 cers, not herein otherwise directed, for the ensuing
31 year, define their duties, and fix their compensations,
32 in cases where such duties and compensations shall
33 not be defined and fixed by the laws of this Com-
34 monwealth.

35 All sittings of the common council shall be public,
36 and all sittings of the mayor and aldermen, when they
37 are not engaged in executive business. The city coun-
38 cil shall take care that money shall not be paid from
39 the treasury unless granted or appropriated; shall
40 secure a just and prompt accountability, by requiring

41 bonds, with sufficient penalty and sureties, from all
42 persons trusted with the receipt, custody, or disburse-
43 ment of money; shall have the care and superin-
44 tendence of city buildings, and the custody and man-
45 agement of all city property, with power to let or
46 sell what may be legally let or sold, except the com-
47 mon; and to purchase property, real or personal, in
48 the name and for the use of the city, whenever its
49 interest or convenience may, in their judgment, re-
50 quire it.

51 And the city council shall, as often as once a year,
52 cause to be published, for the use of the inhabitants,
53 a particular account of receipts and expenditures,
54 and a schedule of city property.

1 SECT. 9. In all cases, in which appointments are
2 directed to be made by the mayor and aldermen, the
3 mayor shall have the exclusive power of nomination,
4 such nomination, however, being subject to be con-
5 firmed or rejected by the board of aldermen: *provided*,
6 *however*, that no person shall be eligible to any office,
7 the salary of which is payable out of the city treas-
8 ury, who, at the time of his appointment, shall be a
9 member either of the board of aldermen or common
10 council; and neither the mayor, nor any alderman,
11 or member of common council, shall, at the same
12 time, hold any other office under the city govern-
13 ment: *provided, however*, that the mayor and presi-
14 dent of the common council shall be, *ex officio*, mem-
15 bers of the school committee; *and provided, further*,
16 that said mayor and aldermen, and one common
17 council man from each ward, shall be overseers of the
18 poor, if said city council may so determine.

1 SECT. 10. Said city council shall have power to
2 choose a city clerk, who shall be clerk of the board
3 of aldermen. He shall perform such duties as shall
4 be prescribed by the board of aldermen, and shall
5 perform all duties, and exercise all the powers, by
6 law incumbent upon, or vested in, the town clerk of
7 the town of Lynn.

1 SECT. 11. Three assessors shall be annually chosen
2 by the city council, who shall exercise the same pow-
3 ers, and be subject to the same duties and liabilities,
4 that the assessors in the several towns in the Com-
5 monwealth may exercise, or be subject to, under
6 existing laws.

7 And the city council shall appoint one person in
8 each ward, whose duty it shall be to furnish the
9 assessors with all necessary information relative to
10 persons and property taxable in their several wards,
11 and who shall be sworn to the faithful performance
12 of their duty.

13 All taxes shall be assessed, apportioned, and col-
14 lected in the manner prescribed by the laws of the
15 Commonwealth: *provided, however,* that the city
16 council may establish further or additional provisions
17 for the collection thereof.

1 SECT. 12. The city council shall have exclusive
2 authority and power to lay out any new street or
3 town-way, and to estimate the damages any indi-
4 vidual may sustain thereby; but all questions relat-
5 ing to the subject of laying out, accepting, altering,
6 or discontinuing, any street or way, shall first be
7 acted upon by the mayor and aldermen.

8 And any person dissatisfied with the decision of
9 the city council, in the estimate of damages, may
10 make complaint to the county commissioners of the
11 county of Essex, at any meeting held within one
12 year after such decision, whereupon the same pro-
13 ceedings shall be had as are now provided by the
14 laws of the Commonwealth, in cases where persons
15 are aggrieved by the assessment of damages by the
16 selectmen, in the twenty-fourth chapter of Revised
17 Statutes.

1 SECT. 13. All power and authority now by law
2 vested in the board of health for the town of Lynn,
3 or in the selectmen of said town, shall be transferred
4 to, and invested in, the city council, to be carried into
5 execution in such manner as the city council shall
6 deem expedient.

1 SECT. 14. The city council shall have authority to
2 cause drains and common sewers to be laid down
3 through any streets or private lands, paying the
4 owners such damage as they may sustain thereby;
5 and to require all persons to pay a reasonable sum
6 for the privilege of opening any drain into said pub-
7 lic drain or common sewer.

8 And the city council may make by-laws, with suita-
9 ble penalties, for the inspection, survey, measurement,
10 and sale of lumber, wood, coal, and bark, brought
11 into the city for sale.

1 SECT. 15. It shall be the duty of the city council,
2 in the month of October, annually, to meet in con-
3 vention, and determine the number of representatives
4 to be sent to the general court, by said city in such

5 year, and to publish such determination, which shall
6 be conclusive, and the number thus determined shall
7 be specified in the warrant calling a meeting for the
8 election of representatives.

1 SECT. 16. All elections for county, state, and
2 United States officers, who are voted for by the peo-
3 ple, shall be held at meetings of the citizens qualified
4 to vote in such elections, in their respective wards,
5 at the time fixed by law for these elections respect-
6 ively ; and, at such meetings, all the votes, given for
7 said several officers respectively, shall be assorted,
8 counted, declared, and registered in open ward meet-
9 ing by causing the names of all persons voted for,
10 and the number of votes given for each, to be written
11 in the ward record in words at length. The ward
12 clerk shall forthwith deliver to the city clerk a cer-
13 tified copy of the record of such elections.

14 The city clerk shall forthwith record such returns,
15 and the mayor and aldermen shall, within two days
16 after every such election, examine and compare all
17 said returns, and make out a certificate of the result
18 of such elections, to be signed by the mayor and a
19 majority of the aldermen, and also by the city clerk,
20 which shall be transmitted, or delivered in the same
21 manner as similar returns are by law directed to be
22 made by selectmen of towns. And in all elections
23 for representatives to the general court, in case the
24 whole number proposed to be elected shall not be
25 chosen by a majority of the votes legally returned,
26 the mayor and aldermen shall forthwith issue their
27 warrant for a new election, conformably to the provis-
28 ions of the constitution, and the laws of the Com-
29 monwealth.

1 SECT. 17. Prior to every election, the mayor and
2 aldermen shall make out lists of all the citizens of
3 each ward, qualified to vote in such elections, in the
4 manner in which selectmen of towns are required to
5 make out lists of voters; and, for that purpose, they
6 shall have full access to the assessors' books and lists,
7 and be entitled to the assistance of all assessors, assistant
8 assessors, and city officers, and they shall deliver said
9 lists, so prepared and corrected, to the clerks of said
10 wards, to be used at such elections; and no person
11 shall be entitled to vote whose name is not borne on
12 such lists.

1 SECT. 18. General meetings of the citizens quali-
2 fied to vote, may, from time to time, be held, to con-
3 sult upon the public good; to instruct their repre-
4 sentatives, and to take all lawful measures to obtain
5 redress for any grievances, according to the right
6 secured to the people by the constitution of this Com-
7 monwealth.

8 And such meetings may and shall be duly warned,
9 by the mayor and aldermen, upon the requisition of
10 fifty qualified voters.

1 SECT. 19. The city council shall have power to
2 make all such salutary and needful by-laws as towns,
3 by the laws of this Commonwealth, have power to
4 make and establish, and to annex penalties, not ex-
5 ceeding twenty dollars, for the breach thereof, which
6 by-laws shall take effect, and be in force, from and
7 after the time therein respectively limited, without
8 the sanction of any court, or other authority what-
9 ever; *provided, however,* that all laws and regula-
10 tions, now in force in the town of Lynn, shall, until

11 they shall expire by their own limitation, or be re-
12 vised or repealed by the city council—remain in force
13 —and all fines and forfeitures, for the breach of any
14 by-law, or ordinance, shall be paid into the city
15 treasury.

1 SECT. 20. All fines, forfeitures and penalties, ac-
2 cruing for the breach of any by-laws of the city of
3 Lynn, or of any of the ordinances of the city council,
4 or of any of the orders of the mayor and aldermen,
5 may be prosecuted for and recovered, before the police
6 court in said city of Lynn, by complaint or informa-
7 tion, in the same way and manner in which other
8 criminal offences are now prosecuted before the police
9 courts within this Commonwealth; reserving, how-
10 ever, in all cases, to the party complained of and
11 prosecuted, the right of appeal to the court of com-
12 mon pleas, then next to be held in the county of
13 Essex, from the judgment and sentence of the police
14 court.

15 And the appeal shall be allowed on the same terms,
16 and the proceedings be conducted therein in the same
17 manner, as provided in the one hundred and thirty-
18 eighth chapter of the Revised Statutes of this Com-
19 monwealth.

20 And it shall be sufficient, in all such prosecutions,
21 to set forth, in the complaint, the offence fully, plain-
22 ly, substantially, and formally; and it shall not be
23 necessary to set forth such by-law, ordinance or order,
24 or any part thereof.

25 All fines, forfeitures, and penalties, so recovered
26 and paid, shall be paid to the treasurer of the city of
27 Lynn, and shall enure to such uses as said city coun-
28 cil shall direct.

29 When any person, upon any conviction before the
30 police court, for any breach of any by-law of said city
31 of Lynn, or any of the ordinances of the city council,
32 or any of the orders of the mayor and aldermen, shall
33 be sentenced to pay a fine, or ordered to pay any
34 penalty or forfeiture, provided by any such by-law,
35 ordinance, or order, or, upon claiming an appeal,
36 shall fail to recognize for his appearance at the court
37 appealed to, and there to prosecute his appeal, and to
38 abide the sentence or order of the court thereon, and,
39 in the mean time, to keep the peace, and be of good
40 behavior; and, upon not paying the fine, penalty, or
41 forfeiture, and cost so assessed upon him, he shall be
42 committed to prison, there to remain until he or she
43 shall pay such fine, forfeiture or penalty, and costs, or
44 be otherwise discharged according to law.

45 The provisions of this section shall also apply to
46 all prosecutions founded on the by-laws or ordinances
47 of the town of Lynn—which may continue in force
48 after this act shall go into operation, and all the
49 powers of the police court, already established, shall
50 be continued to it.

1 SECT. 21. For the purpose of organizing the sys-
2 tem of government hereby established, and putting
3 the same into operation, in the first instance, the se-
4 lectmen of the town of Lynn for the time being,
5 shall, on some day during the months of May or
6 June, of the present year, issue their warrants, seven
7 days at least previous to the day so appointed for
8 calling meetings of the said citizens, at such place
9 and hour as they may deem expedient, for the pur-
10 pose of choosing a warden, clerk, and inspectors for
11 each ward, and all other officers, whose election is

12 provided for in the preceding sections of this act, and
13 the transcripts of the records of each ward, specify-
14 ing the votes given for the several officers aforesaid,
15 certified by the warden and clerk of such ward at
16 said first meeting, shall be returned to the said select-
17 men, whose duty it shall be to examine and compare
18 the same, and, in case said elections should not be
19 completed at the first meeting, then to issue new
20 warrants until such elections shall be completed ;
21 and to give notice thereof, in the manner herein be-
22 fore provided, to the several persons elected.

23 And, at said first meeting, any inhabitant of said
24 ward, being a legal voter, may call the citizens to
25 order, and preside until a warden shall have been
26 chosen. And, at said first meeting, a list of voters in
27 each ward, prepared and corrected by the selectmen
28 for the time being, shall be delivered to the clerk of
29 each ward, when elected, to be used as herein before
30 provided. And the selectmen shall appoint such
31 time for the first meeting of the city council, as they
32 may judge proper, after the choice of city officers, as
33 aforesaid, or a majority of the members of both
34 branches, in the year one thousand eight hundred
35 and forty-nine, and shall also fix upon the place and
36 the hour of said first meeting, and a written notice
37 thereof shall be sent, by said selectmen, to the place
38 of abode of each of the city officers chosen as pro-
39 vided in this section.

40 And after this first election of city officers, and
41 this first meeting for the organization of the city
42 council, as in this section is provided, the day of
43 holding the annual elections, and the day and hour
44 for the meeting of the city council, for the purpose

45 of organization, shall remain as provided in the sixth
46 section of this act.

47 And it shall be the duty of the city council, imme-
48 diately after the first organization, to elect all neces-
49 sary city officers, who shall hold their offices respect-
50 ively until others are chosen and qualified.

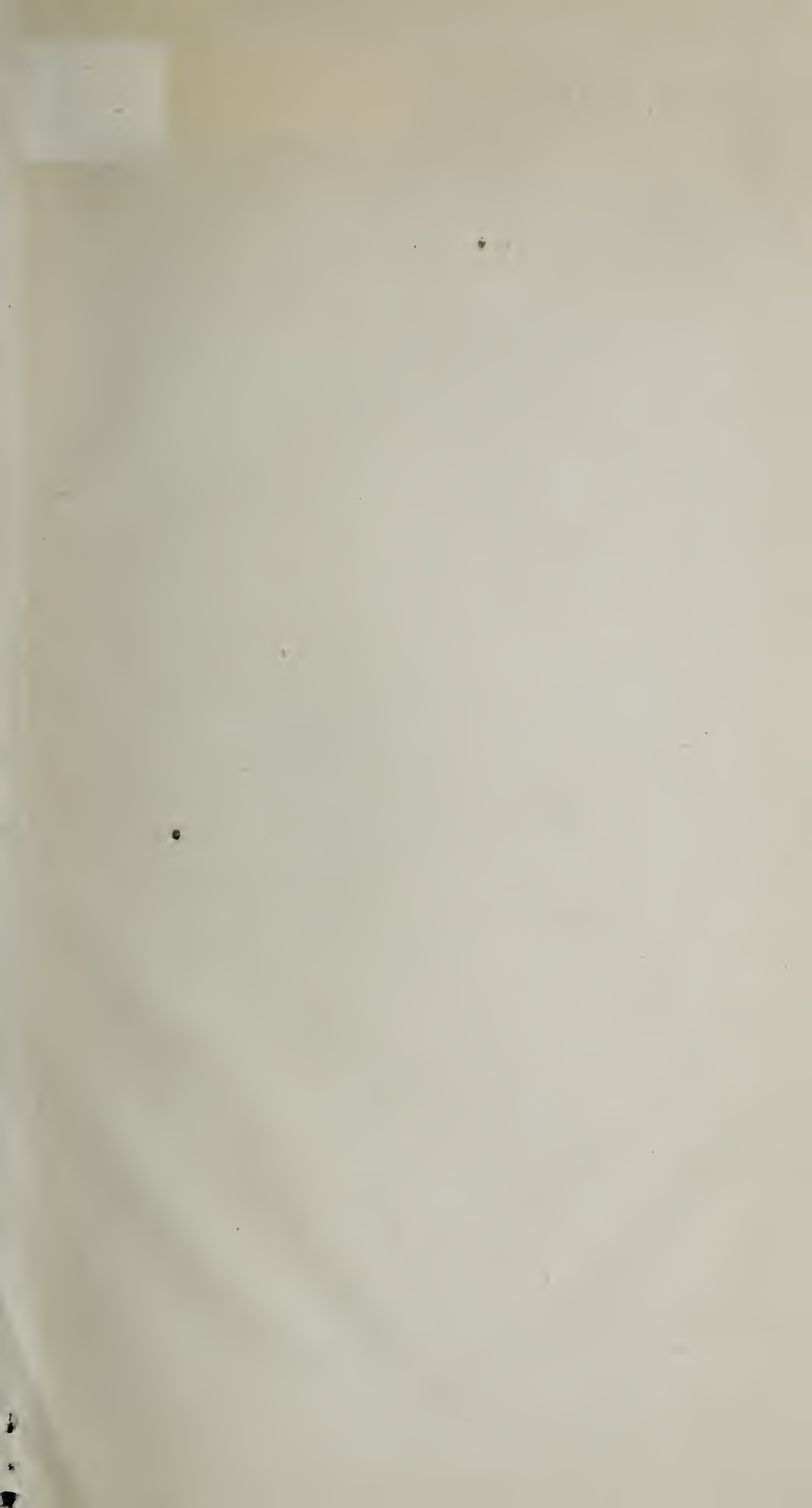
1 SECT. 22. All officers of the town of Lynn, hav-
2 ing the care and custody of any records, papers, or
3 property, belonging to said town, shall deliver the
4 same to the city clerk, within one week after his
5 entering upon the duties of his office.

1 SECT. 23. All such acts, and parts of acts, as are
2 inconsistent with the provisions of this act, shall be,
3 and the same are, hereby repealed.

1 SECT. 24. Nothing in this act contained shall be
2 so construed as to prevent the Legislature from alter-
3 ing or amending the same whenever they shall deem
4 it expedient.

1 SECT. 25. This act shall be void, unless the in-
2 habitants of the town of Lynn, at a legal meeting
3 called for that purpose, at which meeting the select-
4 men shall preside, and the check-list used in the same
5 manner as at meetings called to choose State officers,
6 and the polls be kept open at least six hours, shall,
7 by a vote of a majority of the voters present, and
8 voting thereon, yea or nay, by a written ballot, deter-
9 mine to adopt the same within twenty days from and
10 after its passage.

1 SECT. 26. This act shall go into operation from
2 and after its passage.





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